

May 22, 2020

Mr. Steven Heintz, Esq.
Hyatt & Weber, P.A.
200 Westgate circle, suite 500
Annapolis, MD 21401

RE: Mihalic & Bare Properties at 12601 & 12521 Ivy Mill Road
Forest Buffer Variance
Tracking #04-20-3192

Dear Mr. Heintz:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability (EPS), Title 3 Law for the Protection of Water Quality, Streams, Wetlands, and Floodplains (i.e. Forest Buffer Law) was received by this Department on March 11, 2020. The Mihalic and Bare properties are lots 19 and 20, respectively, of the Gouline Property residential subdivision that was developed in 1992. If granted, this variance would authorize the continued use of 33,371 square feet (approximately 0.77 acre) of a total 49.54-acre (+/-) Forest Buffer Easement for existing residential uses, including yard area on both lots and a swimming pool at the Bare Property. Of that 0.77 acre, 0.43 would be on the Mihalic Property and 0.34 on Bare Property.

Currently, about 1.8 acres of this Forest Buffer Easement on both lots are being disturbed, primarily by mowing. This disturbed portion of the buffer was not forested at the time the subdivision was developed, so the buffer area was basically maintained as it existed before 1992, when this protective Forest Buffer Easement was established. The remainder of the 49.54-acre Forest Buffer Easement continues as mature forest.

This Department has evaluated the request and finds that a practical difficulty would result from full compliance with the Forest Buffer Law, which would require abandonment of all existing uses in the Forest Buffer Easement and allowing its conversion to a fully functioning buffer. That abandonment would entail removing a concrete, in-ground swimming pool. Furthermore, we find that impacts to water quality resulting from the variance can be adequately minimized by planting approximately 39,000 square feet (sf) of the Forest Buffer Easement and posting its limit with protective signage.

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Based on our review, this Department finds that the variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-3-103 (b) of the Baltimore County Code with the following conditions:

1. The area of continued use within the Forest Buffer Easement shall be limited to the approximately 0.8 acres delineated on the exhibit accompanying the variance application, which includes the swimming pool as it currently exists. A minimum 100 foot undisturbed buffer to the stream shall be maintained on both lots.
2. There shall be no intensification or expansion of these authorized uses within the recorded Forest Buffer Easement nor any new impacts to its portion to remain undisturbed. All current mowing, disposal of yard waste, or other disturbances in the Forest Buffer Easement not authorized herein shall cease immediately.
3. Any change in land use, including resubdivision of either or both lots, shall negate this variance, thus requiring full compliance with this law, as may be amended at that time.
4. The Declaration of Protective Covenants for the Forest Buffer Easement shall be recorded in Baltimore County Land Records for each lot using the enclosed instrument (i.e. Document K in the R.W. Manual). This declaration shall refer to the Gouline Property Record Plat 2 of 3 recorded in Plat Book S.M. 65, folio 3. Documentation that this recordation has been completed shall be submitted to EPS by July 3, 2020.
5. 39,000 sf of open Forest Buffer Easement shall be planted with native deciduous species of trees in accordance with an EPS-approved Forest Buffer Protection Plan (FBPP) prior to November 1, 2020. At least 40% of the trees shall be a minimum 5-foot high container grown stock. In no case shall planted trees be less than 3-feet high, and all trees shall be adequately sheltered to protect against deer and rodent damage. There is an additional open area of the buffer in the southeast corner of lot 20 between the stream and the proposed planting area totaling approximately 2,500 sf that must also be planted using the larger tree stock. This will be included in the 39,000 sf requirement, but the outer limit of undisturbed buffer and planting area shall be as shown on the exhibit accompanying the variance request.
6. The limit of the functioning Forest Buffer Easement on both properties shall be permanently posted with "Forest Buffer-Do Not Disturb" signs at 100-foot intervals or any turn in its limit by November 1, 2020. Information regarding installation of these signs is enclosed.

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7. The aforementioned FBPP shall be submitted to EPS for review and approval by July 3, 2020. The FBPP must include a plant schedule, planting typicals, shelter specifications, maintenance, monitoring, and security release schedule. The 5-6-ft high trees shall be planted at 100 stems/acre (i.e. 36 trees), the smaller tree stock (3-5-ft high) shall be planted at 200 stems/acre (107 trees). It is suggested that a qualified environmental consultant or licensed landscape architect familiar with preparing restoration plantings for Baltimore County approval prepare this plan.
8. A \$9,750 security for implementation of the FBPP shall be posted with EPS via an Environmental Agreement by July 30, 2020. This amount is based on the minimum \$0.25/sf accepted by EPS over the 39,000 sf to be planted.
9. The following note must be on all future plans and plats for either property:

“A variance was granted on May 22, 2020 by Baltimore County Dept. of Environmental Protection & Sustainability to allow continued use of approximately 0.8 acre of the Forest Buffer Easement. Conditions were placed on this variance to minimize impacts to water quality including planting 39,000 sf of the Forest Buffer Easement, posting protective signage along the portion of the buffer to remain undisturbed, and recording the easement’s Declaration of Protective Covenants in Land Records.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the property owners sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of any plans.

If you have any questions regarding this correspondence, please call Mr. Thomas Krispin or Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Director

DVL/ges

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Enclosures (3)

- c. Mr. Ryan Mihalic, Property Owner, Lot 19
Mr. John Bare, Property Owner, Lot 20

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Law for the Protection of Water Quality, Streams, Wetlands, and
Floodplains.

Lot 19 Owner's Signature Date

Lot 19 Owner's Printed Name

Lot 20 Owner's Signature Date

Lot 20 Owner's Printed Name